



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: The Monroe County Planning Commission
From: Joseph Haberman, Principal Planner *[Signature]*
Through: Townsley Schwab, Acting Sr. Director of Planning & Environmental Resources
Date: July 8, 2008
Subject: *Request for a Setback Variance by Monroe County for property located at 10 South Conch Avenue, Conch Key, mile marker 63 (bayside), Real Estate No. 00099040.000000*

Meeting: July 23, 2008

I REQUEST:

The Applicant is proposing to redevelop Fire Station No. 17, commonly known as Conch Key Fire Station, located at 10 South Conch Avenue on Conch Key. The proposed redevelopment involves the renovation of the existing 2,846 ft² one-story building; the construction of a 3,424 ft² two-story addition to the existing building, resulting in a 6,270 ft² building; and the carrying out of several miscellaneous site improvements.



Subject Property (blue) / Site (yellow), 10 South Conch Avenue, Conch Key (2006)

1 The subject property is located in the Commercial Fishing Special District - 16 (CFSD-16)
2 Land Use District. The Applicant is requesting a variance of twenty-five (25) feet from the
3 required twenty-five (25) foot front yard setback along US 1 and twenty-three (23) feet from
4 the required twenty-five (25) foot front yard setback along South Conch Avenue. The
5 granting of this variance would provide the Applicant with more land area to construct the
6 building addition to the existing fire station building and gravel parking areas.
7

8 In 2004, Monroe County received an amendment to a major conditional use permit in order
9 to renovate and expand the existing fire station, recorded in Planning Commission Resolution
10 No. P49-04. Resolution P49-04 also included a setback waiver for the proposed
11 development. However, as a result of conditional use permit time limitations, Resolution No.
12 P49-04 expired. This application is to have setback waiver for the project re-approved. The
13 proposed site plan in this application is the same as the site plan approved in 2004.
14

15 Location:

16 Address: 10 South Conch Key Avenue, Conch Key, mile marker 63 (bayside)

17 Legal Description: Section 15, Township 65 South, Range 34 East, portion of the right-
18 of-way of State Road 5 (US Highway 1) and part Lot 1, Conch Key, PB2-130

19 Real Estate (RE) Number: 00099040.000000
20

21 Applicant:

22 Owner: Monroe County

23 Agent: Barbara Mitchell, the Craig Company
24

25 II PROCESS:
26

27 Pursuant to §9.5-524 of the Monroe County Code (MCC), the Planning Commission is
28 authorized to grant variances for the reduction of non-shoreline setback requirements for
29 front, side and rear yard setbacks.
30

31 The variance application shall be heard at a regularly scheduled meeting of the Planning
32 Commission. Notice, posting and hearing requirements shall be in accordance with MCC
33 §9.5-524. Except for the special accessibility setback variance provided for in MCC §9.5-
34 523(g), a variance shall only be granted if the standards in MCC §9.5-523(f) are met.
35

36 III RELEVANT PRIOR COUNTY ACTIONS:
37

38 Building Permit 7416, issued on July 10, 1964, approved the construction of a 1,750 ft² fire
39 station (50 ft x 35 ft) on the property. Subsequently, several building permits have been
40 issued for improvements to the building and site, including building additions permitted via
41 Building Permit B-3015 in 1978 and Building Permit 962-0799 in 1996.
42

43 The property was being used as a fire station, defined as a public use, prior to the adoption of
44 the current land development regulations in 1986. Therefore, in accordance with MCC §9.5-
45 2(c), the site has been deemed to have a major conditional use permit since 1986.
46

1 In 1991, at the direction of the Board of County Commissioners (BOCC), the existing fire
2 facilities throughout Monroe County were evaluated. At that time, it was found that the
3 Conch Key Fire Station did not adequately meet the present day needs of the community and
4 the anticipated future needs of the community.
5

6 In 2004, Monroe County received an amendment to a major conditional use permit in order
7 to renovate and expand the existing fire station on the subject property. In addition, the
8 permit waived the front yard setback requirement. The approval was filed and recorded in
9 Planning Commission Resolution No. P49-04 on January 10, 2005. However, a building
10 permit was not applied for within six months of the recording date and as a result of
11 conditional use permit time limitations, Resolution No. P49-04 expired and became null and
12 void.
13

14 The Applicant re-applied for an amendment to the major conditional use permit on June 16,
15 2008. The major conditional use permit application is running concurrently with this
16 variance application and is also scheduled to be heard and decided upon by the Planning
17 Commission on July 23, 2008.
18

19 Note: The following condition has been recommended by Staff for the major conditional use
20 permit application: Prior to the issuance of a resolution by the Planning Commission, a) the
21 Applicant shall receive a variance to the setback requirements from the Planning
22 Commission in accordance with §9.5-524 of the Monroe County Code or b) the Applicant
23 shall revise the site plan to show that all setback regulations shall be met.
24

25 IV BACKGROUND INFORMATION:

26

- 27 A. Total Size of Parcel RE 00099040.000000: 50,825 ft² (1.17 acres)
28 Conveyed Portion of Parcel (for fire station): 15,024 ft² (0.34 acres)
29 FDOT right-of-way (leased through 2021): 6,176 ft² (0.14 acres)
30 Total Size of Site (including conveyed and FDOT land): 21,200 ft² (0.49 acres)
31 B. Land Use District (of Parcel & Site): Commercial Fishing Special District 16 (CFSD-16)
32 C. Future Land Use Map (FLUM) Designation (of Parcel): Public Facilities (PF) / Mixed
33 Use/Commercial Fishing (MCF)
34 Future Land Use Map (FLUM) Designation (of Site): Public Facilities (PF)
35 D. Tier Designation (of Parcel & Site): Tier III
36 E. Flood Zone (of Site): AE – EL 10
37 F. Existing Use (of Site): Public
38 G. Existing Vegetation / Habitat (of Site): Developed with sparse vegetation and mangroves
39 along the shoreline
40 H. Community Character of Immediate Vicinity: Mixed Use; residential, commercial and
41 commercial fishing
42

43 V REVIEW OF APPLICATION:

44

45 As set forth in MCC §9.5-281, the required non-shoreline setbacks in the CFSD-16 District
46 are as follows: Front yard – 25 feet; Rear yard – 20 feet; and Side yard – 10/15 feet (where

1 10 feet is the required side yard for one side and 15 feet is the minimum combined total of
2 both side yards).

3
4 The site is irregularly-shaped and situated at the intersection of US 1 and South Conch
5 Avenue. It is bordered by the right-of-way of South Conch Avenue to the East/Northeast, the
6 right-of-way of US 1 to the South/Southeast, a developed residential lot to the Northwest and
7 open water to the West/Southwest.

8
9 Therefore, the site has required front yard non-shoreline setbacks of twenty-five (25) along
10 both rights-of-way and a required side yard non-shoreline setback of five (5) feet from the
11 northwestern property line. In addition, in accordance with MCC §9.5-349, there is a
12 shoreline setback of thirty (30) feet from mean high water for principal structures along the
13 shoreline.

14
15 In both the major conditional use permit application and the 2004 staff report for the
16 conditional use permit/setback waiver approved under Resolution P49-04, the setbacks were
17 measured utilizing the area of the 6,176 ft² of FDOT right-of-way, which is under lease until
18 2021. Staff has since determined that leased land cannot be used for setbacks in that if the
19 lease expires, a development nonconforming to setbacks required by MCC §9.5-281 would
20 be created. Therefore, Staff required the Applicant to apply for a variance in order to reduce
21 the setback requirements. (Note: With the adoption of Ordinance 40-2007, MCC §9.5-66
22 was deleted and the Planning Commission no longer has the authority to waive the setback
23 requirements as part of a conditional use permit application).

24
25 A portion of the existing building and a gravel parking area currently exist within the
26 required setback along US 1 and a gravel parking area currently exists within the required
27 setback along South Conch Avenue. As shown on the site plan, four (4) off-street parking
28 spaces (identified as nos. 1, 2, 3 and 4) would be located in the required front yard setback
29 along South Conch Avenue and three (3) off-street parking spaces (identified as nos. 5, 6 and
30 7), a portion of the proposed building addition and a generator/fuel tank platform would be
31 located within the required front yard setback along US 1.

32
33 In addition, a portion of the existing building and a shed are in the required shoreline setback.
34 The existing building is considered a lawfully-established nonconforming structure; however,
35 Staff found no building permit authorizing the shed. The existing, nonconforming building
36 would be brought into compliance to the greatest extent practical with the demolition of
37 approximately 300 ft² of the structure that is within the shoreline setback. The shed would be
38 removed.

39
40 The Applicant is requesting a variance of twenty-five (25) feet from the required twenty-five
41 (25) foot front yard setback along US 1 and twenty-three (23) feet from the required twenty-
42 five (25) foot front yard setback along South Conch Avenue. The granting of this variance
43 would provide the Applicant with more land area to construct the addition to the existing fire
44 station building and gravel parking areas.

Pursuant to MCC §9.5-523(f), the Planning Commission may grant a variance if the applicant demonstrates that all of the following standards are met:

A. *The applicant demonstrates a showing of good and sufficient cause:*

Applicant: The two variances requested are the minimum needed to facilitate the construction of the fire station addition as well as recognize the location of existing parking spaces.

Monroe County has owned this parcel since before 1970 and there are no sales on record with the property appraiser for this land. The current building was constructed in 1977 for use as a fire station. As part of the 1991 evaluation of the existing county fire facilities, the BOCC determined that the Conch Key Fire Station was inadequate and required upgrading. The BOCC directed staff to pursue renovations to the facility. In addition, in 1991, the County entered into a lease agreement with the FDOT to lease a portion of the unused area adjacent to the fire station property. Since 1991, this leased area has historically been used for the outdoor storage of emergency equipment.

This renovation includes upgrading the existing structure and constructing a new two-story addition on the south side of the fire station. The size of the addition and the scope of the renovation were determined after assessing current and anticipated future needs. Of primary concern for the fire station was to provide enclosed garages to protect the fire trucks and emergency vehicles. The resulting design balances the design program with the limited site area available for expansion. The size requirements for the garage played a primary role in developing the footprint of the structure. The building will be contained on the parcel owned by Monroe County; however, the parking and landscaping will be placed on the adjacent leased parcel.

This is an important upgrade that is needed to serve Monroe County. Alternative site designs were considered; however, providing compliance with the 25 foot setback from this parcel line would diminish the available construction area to such a size that is unusable. Furthermore, the travel lane and shoulder on US 1 will not be compromised because there is a 30 foot setback from the 100 foot right-of-way in this area as shown on the site plan.

The second variance is requested in order to provide parking for staff adjacent to the front door of the fire station as well as to provide a handicap accessible parking space in this same location.

Staff: Monroe County does not own the entire site, 6,176 ft² of land area is leased from FDOT. However, Monroe County does own all of the property in which permanent development, including the building and generator/fuel tank platform, would be located.

The fire station was established in 1964 (not 1977 as per the Applicant's comments) and the proposed improvements are necessary in order for the fire station, a public facility, to meet the essential needs of the community in which it serves. A variance to the required

front yard setbacks is necessary in order for the Applicant to construct a building addition that consists of the desired amount of floor area and to maintain a necessary amount of parking. Therefore, Staff has found that the Applicant demonstrates a showing of good and sufficient cause.

B. *Failure to grant the variance would result in exceptional hardship to the applicant:*

Applicant: If the variances are not granted, the upgrade to this important public facility could not be constructed. Design alternatives have been investigated for this site and the least invasive site design was developed. Significant amounts of public funds would need to be spent in order to either find a new location or purchase this leased area from FDOT. Not to mention the amount of time required for the procurement and design process. The need for this upgrade was recognized in 1991 and it is past time to have this important project constructed. The hardship is not only to the applicant, Monroe County, but all of the citizens of the County if this station is not improved.

Staff: Without a variance, the proposed building addition could not be constructed. There are no other practical alternatives available due to size and configuration of the site. The additional floor area provided within the building addition is necessary in order to resolve several of the deficiencies noted in the 1991 evaluation of the existing fire station, including the station's existing apparatus bay area is below industry standards, the space allocated for Emergency Medical Services (EMS) is inadequate, and the space for administration offices, sleeping quarters, lockers, restrooms, kitchen facilities, fitness rooms, workshop area and storage is inadequate. In addition, the Applicant has invested significant public funds into the approval of this site plan (which was previously approved; however expired due to time limitations). Therefore, Staff has found that failure to grant the variance would result in exceptional hardship to the Applicant.

C. *Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public:*

Applicant: By granting the requested variance, the public will be better served. The renovated fire station is an important component of Monroe County public service capabilities. The facility needs to be renovated. If this variance is not granted, then additional public funds will need to be spent in order to study and locate alternative solutions.

Staff: Not granting the variance would actually result in increased public expenses in that the County would have to invest in the redesign of the site or purchase additional land to address the deficiencies addressed in the 1991 evaluation. In addition, not granting the variance could actually result in an increased threat to public health in safety in that the fire station would have to continue to provide service from an inadequate facility. Therefore, Staff has found that granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance or cause fraud or victimization of the public.

- 1
2 D. *The property has unique or peculiar circumstances, which apply to this property, but*
3 *which do not apply to other properties in the same zoning district:*
4

5 *Applicant:* The use of this property is unique to the zoning district, CFSD-16. There are
6 no other fire stations in this area. The shape of the parcel is consistent for residential
7 development; however, a use such as a fire station has different design criteria.
8

9 *Staff:* In essence, the site is a "corner lot", bordered by two rights-of-way. Although
10 there are several other corner lots in the CFSD-16 District, few properties have such an
11 irregular shape and/or are situated in a similar manner along US 1. In addition,
12 development on the site is furthered constrained by a shoreline setback requirement in
13 which setback variances are not permitted. Therefore, Staff has found that the property
14 has unique or peculiar circumstances, which apply to this property, but which do not
15 apply to other properties in the same zoning district.
16

- 17 E. *Granting the variance will not give the applicant any special privilege denied other*
18 *properties in the immediate neighborhood in terms of the provisions of this chapter or*
19 *established development patterns:*
20

21 *Applicant:* This is an island primarily composed of commercial fishermen and residential
22 structures. Many of these building pre-date the current land use regulations.
23 Consequently, setbacks are encroached throughout the island. In addition, this parcel is
24 located on the water with a mangrove fringe that requires an environmental setback that
25 constrained the design process even further. By definition, fire stations and emergency
26 vehicles must have immediate access to US 1. Certain consideration must be given based
27 upon the important service this property provides to the community. Due to the unique
28 use of this parcel, special privileges will not be granted as a comparison between
29 residential uses and public service are not similar.
30

31 *Staff:* The use of the facility is public and the fire station is for the benefit of all of Conch
32 Key and its surrounding areas. It is a one-of-a-kind facility for the immediate
33 neighborhood. Therefore, Staff has found that granting the variance will not give the
34 Applicant any special privilege denied other properties in the immediate neighborhood in
35 terms of the provisions of the land development regulations or established development
36 patterns.
37

- 38 F. *Granting the variance is not based on disabilities, handicaps or health of the applicant or*
39 *members of his family:*
40

41 *Applicant:* No, this question is not relevant to this request.
42

43 *Staff:* The facility is county-owned and operated. Therefore, Staff has found that
44 granting the variance is not based on disabilities, handicaps or health of the Applicant or
45 members of his family.
46

1 G. *Granting the variance is not based on the domestic difficulties of the applicant or his*
2 *family:*

3
4 *Applicant:* No, this question is not relevant to this request.
5

6 *Staff:* The facility is county-owned and operated. Therefore, Staff has found that
7 granting the variance is not based on the domestic difficulties of the Applicant or his
8 family.
9

10 H. *The variance is the minimum necessary to provide relief to the applicant:*
11

12 *Applicant:* Based upon the requirements for the improvement of this facility, the
13 variance requested is the minimum that will allow the building to be constructed and
14 respond to the needs of the fire department.
15

16 *Staff:* The variance will enhance safety and quality of life of the community. Without a
17 variance, the proposed building addition could not be constructed. There are no other
18 practical alternatives available due to size and configuration of the site. Therefore, the
19 variance is the minimum necessary to provide relief to the Applicant.
20

21 **VI RECOMMENDED ACTION:**
22

23 Staff recommends **APPROVAL** to the Planning Commission for a variance of twenty-five
24 (25) feet from the required twenty-five (25) foot front yard setback along US 1 and twenty-
25 three (23) feet from the required twenty-five (25) foot front yard along South Conch Avenue
26 if the following conditions are met:
27

28 A. The approval of this variance is based on the design of the development as shown on the
29 site plan submitted with the application. Work not specified or alterations to the site plan
30 may not be carried out without additional Planning & Environmental Resources
31 Department approval.
32

33 B. This variance is to allow the development, as shown on the site plan submitted with the
34 application, within the required front yard setbacks along US 1 and South Conch Avenue.
35 It does not waive the required front yard setbacks for any future structures or uses.
36

37 C. Prior to the issuance of any certificate of occupancy or completeness, the Applicant shall
38 remove the shed within the required shoreline setback.
39

40 **VII PLANS REVIEWED:**
41

42 A. Site Plan (A-1) by William P. Horn Architect, P.A., dated August 20, 2004 and last
43 revised April 29, 2008;

44 B. Conceptual Landscape Plan (L-01) by the Craig Company, dated June 1, 2004; and

45 C. Boundary Survey by the Monroe County Public Works Engineering Department, dated
46 April 8, 2004.